

*Filing and Service of Responsive Documents:* All filings must (1) bear in all capital letters the “COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY” or “MOTION TO INTERVENE,” as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission’s regulations.<sup>1</sup> All comments contesting Commission staff’s preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission’s eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

*Locations of Notice of Intent:* Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the Web at <http://www.ferc.gov/docs-filing/elibrary.asp> using the “eLibrary” link. Enter the docket number (e.g., CD15-5-000) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3676 or email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). For TTY, call (202) 502-8659.

Dated: December 10, 2014.

**Kimberly D. Bose,**  
Secretary.

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## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### Boulder Canyon Project—Post-2017 Resource Pool

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of final power allocation.

**SUMMARY:** The Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy (DOE), announces the Boulder Canyon Project (BCP) Post-2017 Resource Pool Final Allocation of Power (BCP Final Allocation). The BCP Final Allocation was developed pursuant to the Conformed Power Marketing Criteria or Regulations for the Boulder Canyon Project (2012 Conformed Criteria) published in the **Federal Register** on June 14, 2012, as required by the Hoover Power Allocation Act of 2011, and Western’s final BCP post-2017 marketing criteria and call for applications published in the **Federal Register** on December 30, 2013. This notice also includes Western’s responses to comments on proposed allocations published on August 8, 2014. The BCP Final Allocation documents Western’s decisions prior to beginning the contractual phase of the process. Electric service contracts will provide for delivery from October 1, 2017 to September 30, 2067.

**DATES:** The BCP Final Allocation will become effective December 19, 2014.

**ADDRESSES:** Information regarding the BCP Final Allocation including comments, letters, and other supporting documents is available for public inspection and copying at the Desert Southwest Customer Service Region, Western Area Power Administration, 615 South 43rd Avenue, Phoenix, AZ 85009. Public comments and related information may be accessed at [http://www.wapa.gov/dsw/pwrnkt/BCP\\_Remarketing/BCP\\_Remarketing.htm](http://www.wapa.gov/dsw/pwrnkt/BCP_Remarketing/BCP_Remarketing.htm).

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Simonton, Public Utilities Specialist, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005-6457, telephone number (602) 605-2675, email [Post2017BCP@wapa.gov](mailto:Post2017BCP@wapa.gov).

**SUPPLEMENTARY INFORMATION:** The BCP was authorized by the Boulder Canyon Project Act of 1928 (43 U.S.C. 617) (BCPA). Under Section 5 of the BCPA, the Secretary of the Interior marketed the capacity and energy from the BCP under electric service contracts effective through May 31, 1987. In 1977, the

power marketing functions of the Secretary of the Interior were transferred to Western by Section 302 of the Department of Energy Organization Act (42 U.S.C. 7152) (DOE Act). On December 28, 1984, Western published the Conformed General Consolidated Criteria or Regulations for Boulder City Area Projects (1984 Conformed Criteria) (49 FR 50582) to implement applicable provisions of the Hoover Power Plant Act of 1984 (43 U.S.C. 619) for the marketing of BCP power through September 30, 2017.

On December 20, 2011, Congress enacted the Hoover Power Allocation Act of 2011 (43 U.S.C. 619a) (HPAA), which provides direction and guidance in marketing BCP power after the existing contracts expire on September 30, 2017. On June 14, 2012, Western published the 2012 Conformed Criteria (77 FR 35671) to implement applicable provisions of the HPAA for the marketing of BCP power from October 1, 2017, through September 30, 2067. The 2012 Conformed Criteria formally established a resource pool defined as “Schedule D” to be allocated to new allottees. In accordance with the HPAA, Western allocated portions of Schedule D power to the Arizona Power Authority (APA) and the Colorado River Commission of Nevada (CRC), as described in the June 14, 2012 **Federal Register** notice. Of the remaining Schedule D power, Western is to allocate 11,510 kilowatts (kW) of contingent capacity and associated firm energy to new allottees within the State of California and 69,170 kW of contingent capacity and associated firm energy to new allottees within the Boulder City Area (BCA) marketing area as defined in the 2012 Conformed Criteria.

After conducting a public process and in consideration of comments received, Western published Final BCP Post-2017 Marketing Criteria (Marketing Criteria) and Call for Applications on December 30, 2013 (78 FR 79436). Applications from those seeking an allocation of Schedule D power from Western were due on March 31, 2014. Western published the BCP Post-2017 Resource Pool Proposed Allocation of Power (BCP Proposed Allocation) in the **Federal Register** on August 8, 2014 (79 FR 46432). Public information and comment forums were held in Las Vegas, Nevada; Ontario, California; and Tempe, Arizona. Western received comments from existing power contractors, Native American tribes, cooperatives, municipalities, and other potential contractors. Transcripts of the public forums, as well as comments received, may be viewed on Western’s

<sup>1</sup> 18 CFR 385.2001–2005 (2014).

Web site at <http://www.wapa.gov/dsw/pwrmkt>.

The BCP Final Allocation was determined from the applications received during the call for applications in accordance with the guidelines of the 2012 Conformed Criteria and the Marketing Criteria.

### Response to Comments on the BCP Proposed Allocation

Western received numerous comments on its BCP Proposed Allocation during the comment period. Western reviewed and considered all comments received. This section summarizes and responds to the comments received on the BCP Proposed Allocation. The public comments below are paraphrased for brevity when not affecting the meaning of the statement(s).

*Comment:* Several comments noted that Western's proposed allocations are consistent with the HPAA and the Marketing Criteria, which result in a reasonable distribution.

*Response:* Western appreciates the support for its application of the Marketing Criteria resulting in reasonable allocation distributions that are consistent with the provisions of the HPAA.

*Comment:* Several comments expressed appreciation and support for the proposed allocations. Western is acknowledged for administering a fair, expedient, and consistent process in the development of the proposed allocations. Final approval of the proposed allocations will enable allottees to achieve significant cost savings that will greatly benefit their communities, provide a widespread benefit of the BCP resource to new entities, and ensure allottees a stable, renewable, and environmentally friendly resource for the next 50 years.

*Response:* Western appreciates the support and recognition of a fair, expedient, and consistent process administration. Western finds the BCP Final Allocation promotes widespread use principles that are in the public interest while navigating a multitude of competing interests.

*Comment:* For Native American communities, access to low-cost power, such as BCP power, is a critical component to economic development and self-sufficiency programs. Western's ongoing recognition of tribal preference power status is therefore an extremely important contributor.

*Response:* Western appreciates the support for its efforts related to tribes.

*Comment:* Specific applicants requested a review of how their application was considered and

potential allocation calculated. Corrections should be made in the event assumptions required adjustment.

*Response:* Western provided descriptions and explanations of calculation methodologies at three public information forums and provided further detail in written responses to questions posed. For those that sought additional information, Western provided a more detailed summary of the calculations applicable to their application. In the process of reviewing Western's calculations and considerations, two corrections were made.

In considering the Gila River Indian Community's (GRIC's) application, Western accounted for the direct allocation of Colorado River Storage Project (CRSP) power to GRIC and also erroneously included the same CRSP allocation as an indirect resource supplied by one of GRIC's host utilities, the Gila River Indian Community Utility Authority (GRICUA). When considering the application of the Metropolitan Domestic Water Improvement District (MDWID), the load distribution across MDWID's host utilities was incorrectly recorded, having an impact on the calculation of indirect benefits of Federal power.

In the calculation of the final allocations, Western has removed the indirect benefits of GRIC's CRSP resource through the GRICUA host utility and corrected the load distribution of MDWID across its host utilities. These corrections altered not only the allocations of GRIC and MDWID, but other allottees as well.

*Comment:* As private corporations, electric cooperatives fall within the defined class of beneficiaries set forth in Section 5 of the BCPA. The proposed allocations are within this legal predicate. As a consequence, Western should refrain from considering any comments that encourage revisiting the eligibility of cooperatives to receive power under Schedule D of the HPAA. The class of eligible entities as defined by the 2012 Conformed Criteria should remain consistent as Western develops the final allocations.

*Response:* Comments concerning matters other than the BCP Proposed Allocation are outside the scope of this process. However, for clarity, Western agrees with the eligibility of cooperatives as determined in the development of the Marketing Criteria.

*Comment:* At times, Western reduced the peak load of an applicant who is a host utility upon receiving an application from potential recipients within that host utility's service territory. Some applicants within these

host utility service areas were not selected for a proposed allocation. For the sake of developing a fair and equitable calculation that relies on an accurate depiction of peak load, Western should recalculate the host utility's peak load used for calculating their proposed allocation by adding back those loads of unsuccessful applicants that Western subtracted from the host utility's peak load calculations. Failure to do so will result in a discriminatory allocation process that denies electric ratepayers' access to the Hoover resources that they are otherwise eligible to receive. Allocations should be re-calculated after these peak load adjustments have been made. These adjustments are particularly important in instances where the applicant within the host utility's service area was not eligible under the 2012 Conformed Criteria. In those circumstances, Western has decreased the host utility's load profile without justification that can be sustained. If Western is unable to adjust peak load in this manner, the commenter suggested that Western should give first priority to the power that a proposed allottee relinquishes due to load substantiation deficiencies, lack of viable transmission access, or other such reasons, and allocate to those entities that should have received a higher allocation if Western had not reduced the peak load submission.

*Response:* Western finds merit in this comment and has accepted it. In the development of the BCP Final Allocation, Western re-instated loads from unsuccessful applicants back to their host utility that maintains load serving responsibility for these loads and recalculated the host utility's final allocation.

In the event an applicant was successful in being awarded an allocation, Western retained the reduction to their host utility's application in order to refrain from considering the same load in the calculation of two separate allocations. In accepting this final allocation method, Western will not be providing a priority to the power that a proposed allottee relinquished because of load substantiation deficiencies, viable transmission access, or other such reasons.

*Comment:* In substantiating load data, Western should rely on proven data sources such as Balancing Authority metered data, metered data from a Generation and Transmission Provider, and Transmission Provider meter data. Western should inform proposed allottees of data sources that would be insufficient or incomplete to

substantiate loads prior to the October 3, 2014 deadline. If any inconsistencies arise after load substantiation submissions on October 3, 2014, proposed allottees should be provided an opportunity to correct any submissions so that the load data Western will use is completely accurate.

*Response:* On August 21, 2014, Western sent a letter to all proposed allottees requiring them to substantiate their actual loads as supplied in the applications. Load substantiation materials could include, among other things, meter verification reports, historical billing records, annual reports, and host utility reports. Tribes were able to use estimated historical load values, subject to Western's review and adjustment, if actual load data was not available. Western received load substantiation materials from all final allottees and worked collaboratively to ensure actual loads were accurately depicted based on reliable materials including verified metering and/or billing data. Western informed those with insufficient or incomplete data submittals in a timely fashion and provided an opportunity to revise, correct, or confirm any inconsistencies identified. All final allocations are based on substantiated historical loads.

*Comment:* Western is encouraged to develop operational protocols as soon as possible to facilitate planning of necessary transmission arrangements.

*Response:* Western intends to establish operational protocols within the contract negotiation process. This is anticipated to occur in calendar year 2015.

*Comment:* The City of Maricopa (Maricopa) is served by Electrical District No. 3 (ED3). Western's allocation methodology assumed that existing Federal power enjoyed by ED3 is shared indirectly with Maricopa. This resulted in Maricopa not receiving a proposed allocation because ED3's existing Federal power exceeds the targets that Western was able to establish in the allocation of BCP. While Maricopa is served by ED3, Maricopa does not benefit from ED3's historic allocation of Federal power. ED3's Federal power allocations are used exclusively for agriculture. This is evidenced by review of ED3's published rate structures that differentiate rates for agricultural irrigation loads and other uses. These rates clearly define how ED3 sequesters its Federal hydro allocation from benefiting non-agricultural customers such as the Maricopa. Based on the fact that Maricopa does not benefit from ED3's Federal allocation, Western should treat

Maricopa as a separate island from ED3 in the calculation of BCP allocations.

*Response:* In reviewing the comment, Western initially evaluated Maricopa's application without considering ED3's Federal power allocations as suggested by Maricopa. However, even under this scenario, Maricopa would still be ineligible to receive an allocation due to not meeting the minimum allocation threshold.

*Comment:* The City of Sierra Vista (CSV) is served by Sulphur Springs Valley Electric Cooperative Inc. (SSVEC). Western's allocation methodology assumed that existing Federal power enjoyed by SSVEC is shared indirectly with CSV. This resulted in CSV not receiving a proposed allocation because its indirect share of SSVEC's existing Federal power causes CSV's target percentage peak load to fall below the 100 kW minimum threshold. This logic unfairly punishes an entity whose energy goals are to minimize consumption as a buyer, while it favors an entity that encourages consumption as a seller. Western's proposed allocation between SSVEC and CSV proves this with the later receiving zero and the former receiving the maximum allowed in this program (3,000 kW). SSVEC has various retail rates differentiating classes of customers, namely irrigation versus commercial classes. The average price paid by CSV to SSVEC is comparable to rates charged by Arizona Public Service and Tucson Electric Power, disproving any existing indirect benefit from existing Federal power finding its way to the CSV. It is proposed that a carve-out of 150 kW be taken from the proposed allocation to SSVEC and reallocated to the CSV.

*Response:* The Marketing Criteria calls for allocation distributions based on historical loads with minimum and maximum allocation thresholds. Western finds distribution based on load is a reasonable means of promoting widespread use of Federal power to a diverse base of customers. Based on the comments provided, Western is not convinced that Federal power provided to SSVEC does not benefit CSV. There are many circumstances and variables contributing to the rates that CSV pays SSVEC. Comparing the rates CSV pays to the rates of neighboring investor owned utilities is not an indication of a lack of indirect Federal power benefit CSV might enjoy via SSVEC. In the calculation of the BCP Final Allocation, Western accounted for these indirect Federal power benefits when considering CSV's application.

*Comment:* Several proposed allottees are served by Salt River Project (SRP).

In the development of the proposed allocations, Western considered the indirect benefits of SRP's Federal power allocations associated to BCP, CRSP, and Parker Davis Project. These resources are supplemented by 450,000 kW from the Navajo Generating Station (NGS) in Page, Arizona, which was funded and developed as a Federal project. The "Exchange Agreement" (Contract No. 14-06-400-2468) (Exchange Agreement) with the U.S. Bureau of Reclamation (Reclamation) gives 533,000 kW of CRSP Glen Canyon dam capacity to SRP. The origins of SRP are rooted in Federal funding used to construct a series of dams on the Salt River with a capacity of 270,000 kW. Western should include these indirect benefits of existing Federal power when determining the allocations within SRP territory if it uses such logic for other applicants with indirect benefits of Federal power.

*Response:* Reclamation has a 24.3 percent participating interest in the NGS, which is used to provide power for the Central Arizona Project (CAP), the Federal water project designed and constructed between the 1970s and early 1990s to deliver Colorado River water to agricultural water users in central Arizona and many of the state's largest municipal water users. SRP does not have an allocation of the Federal interest in the NGS. Power that is not reserved for CAP use is made available to the wholesale market where it may be purchased by other utilities, including SRP. This does not convey an allocation or entitlement to portions of Reclamation's participating interest in the NGS; this surplus power is not sold at-cost, and therefore is not considered equivalent with the benefits of Federal power allocations.

The Exchange Agreement does not convey Glen Canyon generating capacity to SRP for its use. The Exchange Agreement provides for up to 500 megawatts (MW) of Glen Canyon generation delivered to SRP in exchange for receiving like amounts of thermal generation from SRP at alternate delivery points. This arrangement was established to reduce the amount of transmission constructed by both parties. This does not convey to SRP an allocation or entitlement to Glen Canyon generation and therefore is not considered on par with the benefits of Federal power allocations.

Western acknowledges that the origins of SRP are rooted in Federal projects consisting of a series of dams on the Salt River, however a multitude of examples demonstrating widespread and diverse benefits of Federal funding must be considered if one includes

SRP's origins. For example, CAP water users also enjoy an economical electric supply of NGS and BCP power. Many customers benefit from the capabilities of the Federal transmission system. For the purposes of this effort, Western focused on the quantifiable direct and indirect benefits of Federal power allocations in promotion of widespread use of Federal power consistent with Western's statutory mission to market and deliver Federal hydropower. Western does not find it appropriate or quantifiable to consider Federal participation in the origins of an applicant or the applicant's host utility in these proceedings.

*Comment:* When speaking of "direct and indirect benefits," Western has not defined what the term "benefits" means. The relative magnitude of an applicant's electrical consumption was not a basis when considering the "benefits" of Federal power. An allocation of 1 MW to a small utility is a significant resource that will greatly "benefit" the applicant. The allocation of 3 MW to a large utility with almost a 1,000 MW load doesn't derive the same "benefit." Western has not stated the basis for having a ceiling of 3 MW. Why couldn't the ceiling have been 2 MW and allocate more capacity to smaller utilities that can "benefit" from an allocation of between 100 kW and 1 MW? A small customer is discriminated against simply because it has a small peak load that is met by a Federal resource that is greater than the peak load targets Western established and not whether the Hoover Schedule D would greatly "benefit" these small applicants. It is doubtful that the receipt of Hoover Schedule D power will have little if any impact on a large allottee's overall cost of power, while any allocation will substantially "benefit" a small allottee's cost of power. A 2 MW ceiling is just as meaningful as a 3 MW ceiling and would result in power being allocated to small entities that can "benefit" the most from an allocation of Hoover D power.

*Response:* Western has historically used the term "benefits" of Federal hydropower to refer to the economic cost displacement of avoiding more costly power supply purchases or investments. This economic cost displacement is assumed to be universal regardless of the relative size of the allottee.

Western considered a substantial body of comments when establishing the Marketing Criteria and found a 3 MW maximum allocation would provide a balance between meaningful allocations and promoting widespread use to a diverse base of customers. At this time, Western is only considering

comments on the BCP Proposed Allocation and not the Marketing Criteria, including the 3 MW maximum allocation provision.

*Comment:* The Agua Caliente Band of Cahuilla Indians (ACBCI) urges Western to reconsider its allocation of just 1,449 kW to ACBCI and increase such allocation to at least 2,500 kW to 3,000 kW. This increase of allocation should be granted since (1) Western should have accommodated ACBCI's future load needs and not only consider historical loads; (2) ACBCI's current Parker-Davis allocation is not relevant to this process and should have been disregarded; and (3) the "contingent" nature of the BCP allocation further reduces what actual capacity ACBCI might receive from the BCP, placing ACBCI in a position of uncertainty in regard to its expansion plans.

*Response:* These comments substantially concern matters other than the BCP Proposed Allocation and are outside the scope of this process. However, for clarity, Western considered and replied to comments related to the load basis to be used in the determination of allocations and the consideration of existing Federal power allocations when establishing the Marketing Criteria. Western determined that consideration of future loads would introduce speculation and unquantifiable collective risk across all applicants and will not be the foundation of establishing allocations. Western also determined that it would consider the benefits of existing Federal power allocations for all applicants. The "contingent" nature of the BCP allocation will result, at times, in all BCP customers receiving less resource than what was marketed. This has been the case for the vast majority of the current contract term of 30 years and is projected for the foreseeable future. A pro-rata reduction will be applied universally to all BCP customers.

*Comment:* Several commenters indicated support for tribal allocations as proposed and a final allocation scheme that vests allocations of at least some quantity over the 100 kW minimum to every tribal applicant. Several tribal applicants received no proposed allocation and some comments expressed support for any reallocation scheme that favors tribes including those not already considered qualified.

*Response:* Western appreciates the support for tribal allocations as proposed. In establishing the BCP Final Allocation, there were some tribal applicants excluded due to the application of the Marketing Criteria to the applications received.

*Comment:* Western's application of its published allocation criteria in this process need not penalize any tribes and should not preclude allocations to specific tribal applicants. The wording of the criteria as written allows for tribes to now receive BCP power without a total preclusion based on the receipt of other Federal resources if the 25 percent cap is applied differently. Such revisions to what is now proposed would be consistent with Western's obligations as resource administrator and Federal trustee to tribal interests, while also avoiding an overall process delay or disparate burden on non-tribal customers, as California recipients are proposed to receive an almost proximate share of the resource (20.8 percent) despite the absence of historical or trust considerations.

*Response:* The BCP Final Allocation was established by applying the Marketing Criteria to the applications received and comments concerning the Marketing Criteria are outside the scope of this process. Western is not convinced that circumventing the Marketing Criteria, which already provides a first consideration for Native American tribes, would be fair, equitable, or in the public interest.

*Comment:* Investor owned utilities are not preference power entities and a phase-out program diminishing their allocation over time would be appropriate. This should be considered when the next power marketing plan is developed.

*Response:* Western is not allocating any Schedule D power to an investor owned utility. Therefore, this comment is outside of the scope of the proposed allocations under consideration.

*Comment:* The HPAA states in part that "[i]n the case of Arizona and Nevada, Schedule D contingent capacity and firm energy for new allottees other than federally recognized Indian tribes shall be offered through the Arizona Power Authority and the Colorado River Commission of Nevada, respectively." 43 U.S.C. 619a(a)(2)(C)(ii). To appropriately apply these "through" provisions in Arizona, Western should forward a list of the successful non-tribal applicants located in Arizona to APA. The APA would then enter into a standard power sales contract utilized by the APA for its customers for the specific federally-allocated amount of Schedule D power with the successful Arizona applicant. The power sales contract would include the relevant contract terms mandated by HPAA for Schedule D power.

*Response:* Western considers this a contracting issue outside the scope of this process. However, for transparency,

Western has adopted the “through” provisions described in HPAA in the 2012 Conformed Criteria (77 FR 35676). Western intends to contract with APA and CRC for the capacity and energy allocated to non-tribal entities in the States of Arizona and Nevada respectively. These contracts will require APA and CRC to contract with the new allottees for the amount of power allocated to them by Western and contain all contract terms required by the HPAA, the 2012 Conformed Criteria, and any necessary provisions prescribed in Western’s contracts with APA and/or CRC.

*Comment:* The CRC presented a series of concerns with how Western has conducted this process which include:

(1) Western has refused to provide public access to its calculations and work papers, which denies participants the opportunity to participate effectively in this proceeding.

(2) Western has denied allocations to eligible Nevada applicants by incorrectly calculating the current Hoover power benefit to Nevada Power Company’s (NPC’s) non-residential customers.

(3) Western has issued proposed allocations without verifying applicant loads, which must lead to significant questions regarding whether the allocations are valid.

(4) Western has denied allocations to eligible Nevada applicants by applying an extreme version of super-priorities for tribes, which is not authorized by the HPAA.

(5) Western has denied allocations to eligible Nevada applicants by giving preference to cooperatives, which is not authorized by the HPAA. There is no legislative authority for Western to allocate Schedule D power to electric cooperatives.

(6) Western should apply its criteria in a manner which ensures that Nevada’s share of Hoover power is closer to the  $\frac{1}{3}$  authorized by the 1928 Act, not in a matter that exacerbates the disparity.

(7) Western has not yet taken the necessary steps to ensure that Nevada non-tribal applicants receiving allocations through its process will contract for Schedule D power through the CRC.

(8) Western has not yet ensured that entities crossing state boundaries will pay their proportionate share of Hoover-related costs.

(9) Western has not yet re-issued its Hoover Conformed Criteria in a single integrated document, making it extremely difficult for applicants to understand the process.

*Response:* Western’s responses in turn to CRC’s comments are as follows:

(1) Western responded to all questions presented at the public information forums prior to the close of the comment period, including how the Marketing Criteria were applied to the applications received. The CRC request included access to all materials contained in all applications, in particular applicant peak load and resource portfolio information. This information has historically been treated as confidential and proprietary information in the electric industry. Furthermore, Western has previously received numerous comments from applicants explicitly stating that application data is confidential, proprietary, and disclosure by Western of this information would be inappropriate. All applicants that requested further detail regarding the consideration of its application were provided a detailed summary of how the application was considered. Western finds that sufficient information has been provided for all parties to understand how the Marketing Criteria were applied to the applications received in order to calculate the BCP Final Allocation.

(2) Western has reviewed CRC’s comment regarding the calculation of indirect benefits of Federal power for those applicants with load served by the NPC and finds merit in accepting the comment as suggested. In the calculation of the proposed allocations, Western assumed the CRC sub-allocation of BCP power to NPC of 235,232 kW benefited all NPC’s customers totaling a peak load of 5,761,000 kW as reported by the Energy Information Administration (EIA) for calendar year 2012. This resulted in Western’s assumption of approximately 4.1 percent of peak load being served by Federal power for all applicants’ load served by NPC. In researching CRC’s comments, Western confirmed that Schedule B (135,000 kW) is limited to NPC residential customers only. This leaves Schedule A (100,232 kW) left to serve NPC load. As reported by NPC and cross-referenced with EIA 2012 data, NPC load is composed of approximately 42.7 percent residential and 57.3 percent non-residential. This warrants the consideration of 57.3 percent of NPC’s Schedule A, or 57,461 kW, benefiting non-residential customers served by NPC (3,302,675 kW) equating to a NPC indirect Federal power benefit to non-residential applicants of approximately 1.74 percent. Western finds that no residential load is represented in those applicants with load served by NPC. Western

recalculated the final post-2017 allocations assuming approximately 1.74 percent of NPC non-residential customers’ peak load is being served by Federal power.

(3) Western did not find it appropriate to verify loads in developing proposed allocations as they are subject to change. Western has since required all allottees to substantiate their actual loads as supplied in the applications. Western received load substantiation materials from all final allottees and worked collaboratively to ensure actual loads were accurately depicted based on reliable materials, including verified metering and/or billing data.

(4) Western considered and replied to comments related to a first consideration for Native American tribes when establishing the Marketing Criteria. At this time, Western is only considering comments on the BCP Proposed Allocation and not the Marketing Criteria, which includes a first consideration for Native American tribes.

(5) Western considered and replied to comments related to the preference and eligibility of cooperatives when establishing the Marketing Criteria. At this time, Western is only considering comments on the BCP Proposed Allocation and not the Marketing Criteria, which includes the preference and eligibility of cooperatives.

(6) Western considered and replied to comments related to a  $\frac{1}{3}$  distribution of the 69,170 kW to the States of Arizona, California, and Nevada when establishing the Marketing Criteria. At this time Western is only considering comments on the BCP Proposed Allocations and not the Marketing Criteria, including a  $\frac{1}{3}$  each distribution among these States.

(7) Western considers this a contracting issue outside the scope of this process. However, for transparency, Western has adopted the “through” provisions described in the HPAA in the 2012 Conformed Criteria (77 FR 35676). Western intends to contract with APA and CRC for the capacity and energy allocated to non-tribal entities in the States of Arizona and Nevada respectively. These contracts will require APA and CRC to contract with the new allottees for the amount of power allocated to them by Western and contain all contract terms required by the HPAA, the 2012 Conformed Criteria, and any necessary provisions prescribed in Western’s contracts with APA and/or CRC.

(8) This comment also pertains to a contract issue outside the scope of this process. However, Western stated in the 2012 Conformed Criteria that contract

offers shall contain a provision requiring a new allottee to pay a proportionate share of its State's respective contribution (determined in accordance with each State's applicable funding agreement) to the cost of the Lower Colorado River Multi-Species Conservation Program (as defined in Section 9401 of the Omnibus Public Land Management Act of 2009 (Pub. L. 111-11; 123 Stat. 1327)). Western will work with stakeholders to ensure the provisions of the HPAA and the 2012 Conformed Criteria are met in this regard during the contracting process in calendar year 2015.

(9) While establishing the Marketing Criteria, Western stated that it will not combine all this information into one integrated document. Material is available for review at Western's BCP Web site located at [http://www.wapa.gov/dsw/pwrmt/BCP\\_Remarketing/BCP\\_Remarketing.htm](http://www.wapa.gov/dsw/pwrmt/BCP_Remarketing/BCP_Remarketing.htm).

#### Final Power Allocation

The BCP Final Allocation is made in accordance with the 2012 Conformed Criteria, the HPAA, and Western's Marketing Criteria. All allocations are subject to the execution of a contract in accordance with the 2012 Conformed

Criteria. After substantiation of applicant loads, corrections as described within, and consideration of comments; two allottees were added and one removed from the list of allottees contained in the BCP Proposed Allocation. The State of Nevada Department of Administration and the State of Nevada Department of Transportation were added as final allottees. The Duncan Valley Electric Cooperative Inc. was excluded due to the potential allocation falling below the 100 kW minimum allocation threshold.

The BCP Final Allocation is shown in the table below:

Boulder Canyon Project  Allottee	Final post-2017 power allocations			
	Contingent capacity (kW)	Firm energy (kWh)		
		Summer	Winter	Total
Agua Caliente Band of Cahuilla Indians .....	1,449	2,212,925	950,554	3,163,479
Anza Electric Cooperative, Inc .....	1,596	2,437,679	1,044,541	3,482,220
Augustine Band of Cahuilla Indians .....	479	731,533	314,227	1,045,760
Bishop Paiute Tribe .....	380	580,339	249,283	829,622
Cabazon Band of Mission Indians .....	1,003	1,531,790	657,975	2,189,765
California Department of Water Resources .....	3,000	4,581,625	1,968,021	6,549,646
Chemehuevi Indian Tribe .....	1,397	2,133,510	916,442	3,049,952
City of Cerritos, California .....	3,000	4,581,943	1,964,953	6,546,896
City of Chandler, AZ Municipal Utilities Department .....	676	1,032,393	443,461	1,475,854
City of Corona, California .....	2,988	4,563,774	1,955,570	6,519,344
City of Flagstaff, Arizona .....	201	306,969	131,857	438,826
City of Glendale, Arizona .....	426	650,591	279,459	930,050
City of Globe, Arizona .....	115	175,629	75,441	251,070
City of Henderson, Nevada .....	906	1,383,651	594,342	1,977,993
City of Las Vegas, Nevada .....	1,054	1,609,678	691,431	2,301,109
City of North Las Vegas, Nevada .....	763	1,165,260	500,533	1,665,793
City of Payson, Arizona .....	119	181,738	78,065	259,803
City of Peoria, Arizona .....	691	1,055,301	453,301	1,508,602
City of Phoenix, Arizona .....	3,000	4,581,625	1,968,021	6,549,646
City of Rancho Cucamonga, CA Municipal Utility .....	3,000	4,581,945	1,964,940	6,546,885
City of Scottsdale, Arizona .....	2,366	3,613,375	1,552,112	5,165,487
City of Tempe, AZ Public Works Department .....	241	368,057	158,098	526,155
City of Tucson, Arizona Water Department .....	1,248	1,905,956	818,697	2,724,653
City of Victorville, California .....	2,625	4,009,209	1,719,255	5,728,464
Clark County School District .....	3,000	4,581,625	1,968,020	6,549,645
Clark County Water Reclamation District .....	680	1,038,501	446,085	1,484,586
College of Southern Nevada .....	281	429,145	184,338	613,483
Fort McDowell Yavapai Nation .....	338	516,197	221,730	737,927
Gila River Indian Community .....	3,000	4,581,625	1,968,020	6,549,645
Graham County Electric Cooperative, Inc .....	312	476,489	204,674	681,163
Hualapai Indian Tribe .....	381	581,866	249,939	831,805
Imperial Irrigation District .....	3,000	4,581,625	1,968,021	6,549,646
Kaibab Band of Paiute Indians .....	124	189,374	81,345	270,719
Las Vegas Paiute Tribe .....	688	1,050,719	451,333	1,502,052
Las Vegas Valley Water District .....	3,000	4,581,625	1,968,021	6,549,646
Metropolitan Domestic Water Improvement District .....	179	273,371	117,425	390,796
Mohave Electric Cooperative, Inc .....	1,145	1,748,653	751,128	2,499,781
Morongo Band of Mission Indians .....	1,098	1,676,874	720,296	2,397,170
Navajo Tribal Utility Authority .....	3,000	4,581,625	1,968,021	6,549,646
Navopache Electric Cooperative, Inc .....	888	1,356,161	582,534	1,938,695
Northern Arizona Irrigation District Power Pool .....	246	375,693	161,378	537,071
Pascua Yaqui Tribe .....	437	667,390	286,675	954,065
Pechanga Band of Luiseno Mission Indians .....	2,000	3,054,417	1,312,014	4,366,431
Salt River Pima-Maricopa Indian Community .....	3,000	4,581,625	1,968,021	6,549,646
San Diego County Water Authority .....	1,619	2,472,728	1,060,370	3,533,098
San Luis Rey River Indian Water Authority .....	3,000	4,581,625	1,968,021	6,549,646
San Manuel Band of Mission Indians .....	2,554	3,900,490	1,675,442	5,575,932
State of Nevada Department of Administration .....	109	166,465	71,505	237,970
State of Nevada Department of Corrections .....	281	429,145	184,338	613,483
State of Nevada Department of Transportation .....	116	177,156	76,097	253,253
Sulphur Springs Valley Electric Cooperative, Inc .....	2,731	4,170,806	1,791,555	5,962,361
Timbisha Shoshone Tribe .....	119	181,738	78,065	259,803

Allottee	Final post-2017 power allocations			
	Contingent capacity (kW)	Firm energy (kWh)		
		Summer	Winter	Total
Tohono O'odham Nation .....	2,709	4,137,207	1,777,123	5,914,330
Tonto Apache Tribe .....	250	381,802	164,002	545,804
Torres Martinez Desert Cahuilla Indians .....	1,659	2,533,639	1,088,315	3,621,954
Trico Electric Cooperative, Inc .....	3,000	4,581,625	1,968,021	6,549,646
Twenty-Nine Palms Band of Mission Indians .....	1,320	2,015,915	865,929	2,881,844
University of Nevada, Las Vegas .....	305	465,799	200,082	665,881
Viejas Band of Kumeyaay Indians .....	1,388	2,119,765	910,538	3,030,303
Total .....	80,680	123,217,000	52,909,000	176,126,000

The BCP Final Allocation listed above is based on the quantities of contingent capacity and firm energy to be marketed as defined by the HPAA and the 2012 Conformed Criteria. In accordance with the provisions of the HPAA and the 2012 Conformed Criteria, non-tribal allottees in the states of Arizona and Nevada will need to contract for electric service with the APA and CRC. Western will offer electric service contracts to all Native American tribes and California customers. Redistributions of allocated power that is not put under contract by specified dates are prescribed under the provisions of the HPAA, the 2012 Conformed Criteria, and the Marketing Criteria.

### Regulatory Procedure Requirements

#### *Determination Under Executive Order 12866*

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

#### *Environmental Compliance*

In accordance with the DOE National Environmental Policy Act Implementing Procedures (10 CFR 1021), Western has determined that these actions fit within a class of action B4.1 Contracts, policies, and marketing and allocation plans for electric power, in Appendix B to Subpart D to Part 1021—Categorical Exclusions Applicable to Specific Agency Actions.

Dated: December 12, 2014.

**Mark A. Gabriel,**

*Administrator.*

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**BILLING CODE 6450-01-P**

### ENVIRONMENTAL PROTECTION AGENCY

[FRL-9920-65-OA]

#### Notification of a Closed Teleconference of the Chartered Science Advisory Board

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency's (EPA), Science Advisory Board (SAB) Staff Office is announcing a teleconference of the Chartered SAB to conduct a review of two draft reports of recommendations regarding the agency's 2013 and 2014 Scientific and Technological Achievement Awards (STAA). The Chartered SAB teleconference will be closed to the public.

**DATES:** The Chartered SAB teleconference date is Monday, January 26, 2015, from 2:00 p.m. to 3:30 p.m. (Eastern Time).

**ADDRESSES:** The Chartered SAB closed teleconference will take place via telephone only. General information about the SAB may be found on the SAB Web site at <http://www.epa.gov/sab>.

**FOR FURTHER INFORMATION CONTACT:** Members of the public who wish to obtain further information regarding this announcement may contact Angela Nugent, Designated Federal Officer, by telephone: (202) 564-2218 or email at [nugent.angela@epa.gov](mailto:nugent.angela@epa.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(d) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, and section (c)(6) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6), the EPA has determined that the chartered SAB quality review teleconference will be closed to the public. The purpose of the teleconference is for the chartered SAB to conduct a review of two draft reports of recommendations regarding the agency's 2013 and 2014 STAA. The

Chartered SAB teleconference will be closed to the public.

Quality review is a key function of the chartered SAB. Draft reports prepared by SAB committees, panels, or work groups must be reviewed and approved by the chartered SAB before transmittal to the EPA Administrator. The chartered SAB makes a determination in a meeting consistent with FACA about all draft reports and determines whether the report is ready to be transmitted to the EPA Administrator.

At the teleconference, the chartered SAB will conduct reviews for two draft reports developed by an SAB committee charged with developing recommendations regarding the agency's STAA. The first draft report focuses on review of additional agency recommendations for the 2013 awards. Although the chartered SAB reviewed the agency's 2013 STAA nominations and provided advice regarding those nominations in January 2014 (for more information, see [http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr\\_activites/2013%20STAA%20Review?OpenDocument](http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/2013%20STAA%20Review?OpenDocument)), the agency later identified additional nominations for SAB review. The second draft report focuses on the agency's 2014 STAA nominations (for more information, see [http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr\\_activites/2014%20STAA%20Review?OpenDocument](http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/2014%20STAA%20Review?OpenDocument)).

The STAA awards are established to honor and recognize EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities, as exhibited in publication of their results in peer reviewed journals. I have determined that the Chartered SAB quality review teleconference will be closed to the public because it is concerned with recommending employees deserving of awards. In making these draft recommendations, the EPA requires full and frank advice from the SAB. This advice will involve professional judgments on the relative